Docket No. AB-164U

REMARKS

Claims 13-18 were pending in the Application. All claims were rejected under 35 U.S.C. §102(b).

Rejection under Wyatt et. al.

Claim 13 and 14 were rejected under 35 U.S.C. §102(b) as being anticipated by Wyatt et al. (U.S. Pat. No. 5,006,122).

In response, Applicants have canceled claim 14 and amended claim 13. As now amended, claim 13 recites that the "first cannula is held in a substantially fixed position by the stereotactic frame.... " In addition, claim 13 now recites that the first cannula is "dimensioned to be larger than a predetermined hole size in the patient's skull to prevent entry into the brain..." and that the second cannula is "dimensioned to permit insertion through the predetermined hole size in the patient's skull...." It can be seen in Applicants' application, in the embodiment shown in FIG. 5, that cannula 172 is dimensioned to prevent entry into a predetermined hole size in the skull, whereas cannula 170 is dimensioned to go through the predetermined hole size and enter, at least partially, into the brain.

Wyatt, et al., disclose (Wyatt, abstract) that the first cannula penetrates the brain to a predetermined depth. (See also, column 4, lines 8-10.) In order for the first cannula to penetrate the brain, the first cannula 200 (Wyatt, FIG. 2A) must be dimensioned smaller than a predetermined hole size in the skull, which is inapposite to Applicants' amended claim 13 that recites that the first cannula 172 is dimensioned to prevent entry into the predetermined hole size.

As now amended, claim 13 is not anticipated by Wyatt.

Rejection under Collins, Jr.

Claims 13, 15, 16 and 18 were rejected under 35 U.S.C. §102(b) as being anticipated by Collins, Jr. (U.S. Pat. No. 4,886,065).

As now amended, Applicants' claim 13 recites a stereotactic frame that holds the first cannula in a substantially fixed position. Collins does not mention the use of stereotactic

frame, and instead shows that the device is hand-held (See Collins, Jr., FIG. 2; and column 3, lines 43-44). As such, because Collins is missing an element of amended claim 13, Collins does not anticipate claim 13.

Claim 15 depends on allowable claim 13 and, by this dependence, is in condition for allowance.

Applicants' claim 16 has been amended to recite that the lead is a "brain stimulating lead." The lead described by Collins, Jr., is, instead, an intramuscular lead inserted into muscle (see first sentence of Collins, Jr., abstract). Furthermore, Applicants' claim 16 recites the step of "inserting a brain stimulating lead through the second cannula," not an intramuscular lead. See also, Collins, Jr., column 2 lines 7, 16 and 29, which teaches the use of the electrode in muscle rather than the brain. Claim 16 is thus in condition for allowance.

Applicants' claim 18 depends on allowable claim 16, and thus claim 18 is in condition for allowance.

Rejection under Cosman

Claims 13-18 were rejected as being anticipated by Cosman under 35 U.S.C. §102(b).

The cannula 1 in Cosman (shown in FIGS. 2a, 2b, 2c and 2d) is designed to reach down into the target itself (Cosman, column 5, lines 36-37). See also Cosman, claim 1, which recites an entrance cannula "that is adapted to be inserted into living tissue." In contrast, as recited in amended claim 13, Applicants' first cannula is not dimensioned or configured to penetrate any tissue, nor is the first cannula intended to penetrate body tissue.

Claim 15 is believed to be in condition for allowance because it depends on allowable claim 13. In addition, as a separate reason, claim 15 is allowable because it includes "a macroelectrode attached to the second cannula." A macroelectrode is used for electrically stimulating excitable brain cells to cause cells to electrically fire. Cosman, however, teaches the use of electrodes for lesioning (destruction of cells) or recording (no effect to cells) (see title of Cosman patent, "Universal Lesion and Recording Electrode System").

Applicant's claim 16 recites a method of introducing a brain stimulating lead in to a patient's brain. Again, Cosman teaches the use of an electrode for lesioning or recording

tissue, not for stimulating the brain. In addition, Applicant's claim 16 recites that the first cannula is held "completely external to the brain" and hence there is no penetration into the brain. In contrast, Cosman teaches "an entrance cannula (i.e., entrance or cannula 1) ... that is adapted to be inserted into the living body ...."; (see Cosman, claim 1(a)). Thus, Applicants' claim 16 is distinguished from Cosman.

Claim 17 is allowable by virtue of its dependence on allowable claim 16.

Claim 18 is allowable not only by its dependence on allowable claim 16, but also because claim 18 recites the use of a macroelectrode, which is used for stimulating excitable cells such as nerves or brain cells. Cosman employs a different type of electrode for lesioning or recording, not stimulating cells.

No new matter has been added to any amended claims.

Conclusion

Claim 14 has been canceled. In view of the above, Applicants earnestly solicit a timely notice allowance for pending claims 13, 15, 16, 17 and 18.

Respectfully Submitted,

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